



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

LM61/0818

S MICHAEL BENDER
2837 SKIMMER POINT DRIVE SOUTH
GULFPORT FL 33707

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/647,829	05/15/96	010	VINCENT, D	2732 08/18/98
First Named Applicant	OLANIYAN, OLAJIDE O.			

TITLE OF INVENTION REMOTE BROADCAST LISTENING SYSTEM WHICH RECEIVES RADIO/BROADCAST SIGNALS USING RECEIVERS WHICH INCLUDES ANTENNAS AND INTERCONNECTS RECEIVES TO CUSTOMER TELEPHONES/INTERFACE MEANS (AS AMENDED)

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2 2879-M		370-486,000	H95 UTILITY	YES	\$660.00	11/18/98

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/647,829	05/15/96	OLANIYAN	0 2879-M

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EXAMINER

VINCENT, D

ART UNIT

PAPER NUMBER

2732

DATE MAILED:

08/18/98

445/13
L. Ward

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Notice of Allowability

Application No.
08/647,829

Applicant(s)
O. Olaniyan

Examiner
David R. Vincent

Group Art Unit
2732



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to amendment and arguments filed 5/5/98.

☒ The allowed claim(s) is/are 1-8, 10, and 11.

☒ The drawings filed on May 15, 1996 are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☐ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. _____.

☐ including changes required by the proposed drawing correction filed on _____, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance

DOUGLAS W. OLMS
SUPERVISORY PATENT EXAMINER
GROUP 2700

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EXAMINER'S AMENDMENT

1. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview with Michael Bender on August 4, 1998.

2. The application has been amended as follows:

IN THE TITLE:

The title has been changed to --REMOTE BROADCAST LISTENING SYSTEM WHICH RECEIVES RADIO/BROADCAST SIGNALS USING RECEIVERS WHICH INCLUDES ANTENNAS AND INTERCONNECTS RECEIVERS TO CUSTOMER TELEPHONES/INTERFACE MEANS--.

IN THE CLAIMS:

Claim 1, line 4, after "receiver means", --including antenna means-- has been inserted.

Summary of Reasons for Allowance

1. The Applicant has amended the claims.

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2. The Examiner was persuaded by the Applicant's arguments filed 5/5/98, especially page 7.

3. The Examiner has not filed an affidavit which would be required, i.e., by the MPEP § 2144.03 and 37 CFR 1.107. The Examiner's personal knowledge was relied upon for, among other reasons, the reason to combine. Without Examiner's personal knowledge, the Examiner considers combining references such as RealAudio to be hindsight reconstruction.

4. RealAudio does not use an antenna means because the music is not broadcast into the air/free space (which adds noise to the signal) and then received and input into the Internet.

5. The Applicant specifically argues the Applicant's present invention "is not a computer-to-computer system" (see arguments filed 5/5/98, page 7, last three lines on page).

6. Le Cheviller (US 5,457,739 newly discovered/cited) fails to disclose or make obvious a means responsive to an input signal for interconnecting a selected one of the plurality of receiver means to a customer interface means, as specified in amended claim 1.

Reasons for allowance detailed

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3. The following is an Examiner's statement of reasons for allowance: Claims 1-8 and 10-11 are considered allowable since when reading the claims in light of the specification, as per *In re Donaldson Co., Inc.*, 29 USPQ 2d 1845, 1850 (Fed. Cir. 1994), none of the references of record alone or in combination disclose or suggest the combination of limitations specified in the independent claims including the receiver means, antenna means, central station assembly means, customer interface unit means and means responsive to an input signal for interconnecting a selected one of the plurality of receiver means to the customer interface means.

Regarding the newly cited art, Le Cheviller (US 5,457,739), Le Cheviller fails to disclose or make obvious a means responsive to an input signal for interconnecting a selected one of the plurality of receiver means to a customer interface means; Le Cheviller records all incoming broadcasted signals. Although there is only a 300ms delay in re-transmitting the broadcasted signals to customers, Le Cheviller cannot interconnect a selected one of the plurality of receiver means to a customer interface means

The Examiner was persuaded by the arguments filed 5/05/98. The Applicant has made it clear on the record the Applicant's

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present invention is not a computer-to-computer system (see arguments filed 5/5/98, page 7, last three lines on page).

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Explanation for the Examiner not filing an affidavit

Regarding the Examiner's personal knowledge (see the last office action), the exact date which the Examiner conducted the demonstration is unknown. It was during the 1996 Fall semester, meaning between September 1996 and December 1996 (after the filing of the present application). The Examiner conducted a demonstration using Microsoft's Netmeeting™ software; the professor and students which attended a Client Server Master Level course were present. The demonstration was conducted at Johns Hopkins University; the Applied Physics Laboratory (APL) in Laurel, Maryland. The Examiner does not know exactly what literature was present at the time. The Examiner also does not know if the product literature which must have been enclosed with the software, would have enabled, made obvious or suggested to "one of ordinary skill" what the Examiner demonstrated. This does not imply that the Examiner was above or more able than "one

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of ordinary skill", but it is possible that after one of ordinary skill read all the literature enclosed with the Microsoft's Netmeeting™ software, that one of ordinary skill would not have thought of performing a demonstration using a TV/Radio card which was installed in a person's computer in another country, like the Examiner did. In other words, is the Examiner's opinion that the Examiner may have used Microsoft's Netmeeting™ software which was known to the public in 1995 (see below and enclosed articles) in a novel or unobvious way but after the filing date of the present application (08/647,829). Furthermore, the Applicant specifically argues the Applicant's present invention "is not a computer-to-computer system (see arguments filed 5/5/98, page 7, last three lines on page). For the above reasons, the Examiner has not filed an affidavit and has withdrawn the Examiner's Official Notice.

In re page 7 (of the arguments filed 5/5/98), the Applicant states that the Examiner took official notice and that suitable prior art should be placed in the record. The following is a list of articles which mention either Netmeeting™ from Microsoft™ or RealAudio™ from Progressive Networks. RealAudio allows broadcast music and compact disks (CDS) to be retrieved from computers around the world via the Internet. Customers using a

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personal computer (PC), whether labeled as a client or a server, can log on to RealAudio™ sites and chose from a menu, which music said customer would like to listen to via the customer's own personal computer using, i.e. a PC with Internet capabilities, a sound card and speakers or headphones. If a user has the Netmeeting™ software (or AppleTalk, or other Remote Monitoring programs) installed on the PC then the user can also control another person's computer remotely (as mentioned in the last office action). This allows the user to either control the other person's PC and sound card and tune in various radio stations or to control the other person's D drive/CD drive and play music from the other person's computer (as mentioned in the last office action). A list of articles which support the fact that Netmeeting™ and RealAudio™ existed before the filing of this present application, follows.

1.) Terraflex Data Systems Releases the DJ Player..., Business Wire, June 5, 1995.

2.) NetManage Posts Free WebSurfer Internet Browser in Five Languages, Business Wire, February 6, 1996.

3.) Progressive Networks Announces Open RealAudio™ Architecture, Business Wire, January 31, 1996.

4.) RealAudio 2.0 the 'intranet' and More, CommunicationsWeel, n591, January 8, 1996.

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5.) Internet access: Microsoft & Progressive Networks demo the first OLE-enabled Internet browser to incorporate RealAudio, Edge: Work-Group Comuting Report, v6 n291, p19(1), December 11, 1995.

6.) Progressive Networks announces RealAudio™ Server products for Macintosh..., Business Wire, January 10, 1996.

7.) Quarterdeck announces Internetsuite 2.0, featuring Cybersitter, RealAudio, and IRC Global Chat, PR Newswire, January 10, 1996.

8.) Seattle Company to Deliver Radio Programs Through Computers..., Seattle times, April 11, 1995.

9.) Global 'Desktop B' casting' Catches On (RealAudio is spurring the growth of a new class of radio stations broadcasting over the Internet), Billboard, v107, 23, p6+, June 10, 1995.

10.) Startup Turns its On-line Radio..., Electronic Engineering Times, n 843, April 10, 1995.

11.) Internet-Only Radio Station Hopes to take Concept to a new Level..., Saint Paul Pioneer Press, November 4, 1995.

To explain NetMeeting™ in simple terms, Netmeeting™ allows people to do the same thing which, i.e., Windows NT™ does. In Windows NT™ a computer which is labeled as a server, i.e. PC support at the Patent Office, is given the ability to control computers labeled as clients, i.e. the Examiner's computers,

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remotely. PC support is given the ability to control other computers and transfer files to and from.

The Applicant is invited to log onto the RealAudio sites at <http://www.realaudio.com> to see what RealAudio allows the users to do.

Without supporting the Examiner's personal knowledge and official notice, the rejections in the previous office action are not applicable and are withdrawn.

Reasons for Allowance pertaining to RealAudio™

In RealAudio™, radio stations do broadcast their music live and also inject their music directly into the Internet. Although RealAudio would may include a means responsive to an input signal for interconnecting a selected one of the plurality of receiver means to the customer interface means, there would be no receiver means including an antenna means, as specified in independent claim 1. RealAudio™ does not use an antenna means because the music is not broadcast into the air/free space (which adds noise to the signal) and then received and input into the Internet. Furthermore, the Applicant specifically argues the Applicant's present invention "is not a computer-to-computer system (see arguments filed 5/5/98, page 7, last three lines on page).

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4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David R. Vincent whose telephone number is (703) 305-4957.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

(703) 308-5399 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

IMPORTANT NOTICE

Effective April 13, 1998, the Examiner handling this application will be assigned to a new Art Unit as a result of the


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consolidation into Technology Center 2700. See the forth coming Official Gazette notice dated November 11, 1997. For any written or facsimile communication submitted ON OR AFTER November 16, 1997, this Examiner, who was assigned to Art Unit 2615 and subsequently assigned to Art Unit 2713, is now assigned to **new Art Unit 2732**. Please include the new Art Unit 2732 in the caption or heading of any communication submitted after the November 16, 1997 date. Your cooperation in this matter will assist in the timely processing of the submission and is appreciated by the Office.

DAVID R. VINCENT
PATENT EXAMINER

David R. Vincent

August 4, 1998


DOUGLAS W. OLMS
SUPERVISORY PATENT EXAMINER
GROUP 2700